
HOUSE BILL No. 1141

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-38-7.

Synopsis: Expunging records of certain felony convictions. Allows a sentencing court to expunge the records of a felony conviction committed before a person was 21 years of age after the elapse of 20 years from the date the person was convicted.

Effective: July 1, 2001.

Summers

January 9, 2001, read first time and referred to Committee on Courts and Criminal Code.

C
o
p
y



First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1141

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-38-7 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2001]:

4 **Chapter 7. Expungement of Conviction Records**

5 **Sec. 1. This chapter applies to records created as a result of**
6 **allegations that a person committed a felony before the person**
7 **became twenty-one (21) years of age.**

8 **Sec. 2. After the elapse of twenty (20) years after the person was**
9 **convicted of a felony, a person may petition a sentencing court at**
10 **any time to remove from the:**

11 **(1) court's files;**

12 **(2) files of law enforcement agencies;**

13 **(3) files of the department of correction; and**

14 **(4) files of any other person who has provided treatment or**
15 **services to a person under a court order;**

16 **those records pertaining to the person's involvement in criminal**
17 **court proceedings.**



C
o
p
y

1 **Sec. 3. In considering whether to grant the petition, the court**
2 **may review any of the following:**

3 **(1) Whether the person has been rehabilitated to the court's**
4 **satisfaction.**

5 **(2) Any other mitigating factors, including the following:**

6 **(A) Job performance.**

7 **(B) Job retention.**

8 **(C) Community service.**

9 **Sec. 4. The court may not grant the petition if the person has**
10 **been convicted of any felony that the person committed after the**
11 **person became twenty (20) years of age.**

12 **Sec. 5. If the court grants the expungement petition, the court**
13 **shall:**

14 **(1) order each law enforcement agency and each person who**
15 **incarcerated, provided treatment, or provided other services**
16 **for the person under an order of the court, including the**
17 **department of correction, to send that person's records to the**
18 **court;**

19 **(2) seal any court records related to the allegation and any**
20 **proceeding related to the allegation; and**

21 **(3) notify the clerk of the supreme court to seal any records in**
22 **the clerk's possession concerning the allegation or any**
23 **proceeding related to the allegation, if an appeal was taken.**

24 **Sec. 6. Whenever the petition of a person is granted under this**
25 **chapter, no information concerning the arrest or conviction may**
26 **be placed or retained in any state central repository for criminal**
27 **history information or in any other alphabetically arranged**
28 **criminal history information system maintained by a local,**
29 **regional, or statewide law enforcement agency.**

30 **Sec. 7. If a petition is granted under this chapter, the records of**
31 **the sentencing court, the court of appeals, and the supreme court**
32 **shall be permanently sealed. Other records may be destroyed or**
33 **given to the person to whom the records pertain.**

34 **Sec. 8. If a person whose records are expunged brings an action**
35 **that might be defended with the contents of the records, the**
36 **defendant is presumed to have a complete defense to the action.**
37 **For the plaintiff to recover, the plaintiff must show that the**
38 **contents of the expunged records would not exonerate the**
39 **defendant. The plaintiff may be required to state under oath**
40 **whether the plaintiff had records in the criminal justice system and**
41 **whether those records were expunged. If the plaintiff denies the**
42 **existence of the records, the defendant may prove the existence of**

C
o
p
y



1 the records in any manner compatible with the law of evidence.

2 **Sec. 9.** After a court orders a person's records to be expunged
3 under this chapter, the person shall be treated for all purposes as
4 if the person had not been arrested or convicted of the expunged
5 felony.

6 SECTION 2. [EFFECTIVE JULY 1, 2001] **IC 35-38-7**, as added
7 by this act, applies to all felonies regardless of when the offense was
8 committed.

C
o
p
y

